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Zoning Regulation Amendment Request Form

Howard County Comprehensive Zoning Plan Department of Planning and Zoning

[Word 2007 Version]
Before filling out this form, please read the
Instructions section at the end of the form.

A. Applicant Information

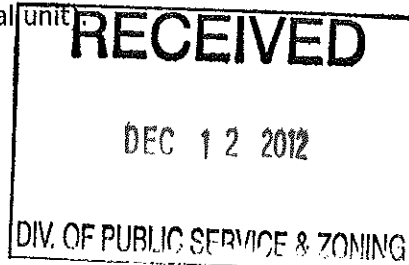
- 1 Applicant Name Atapco Howard Square II Statutory Trust
- 2 Mailing street address or Post Office Box 10 E. Baltimore Street, Suite 1600
- City, State Baltimore, Maryland
- ZIP Code 21202
- Telephone (Main) 410-347-7174 (Russel Powell)
- Telephone (Secondary)
- Fax
- 3 E-Mail rpowell@atapco.com

B. Representative Information (If different than above).

- 4 Name Talkin & Oh, LLP
- Mailing street address or Post Office Box 5100 Dorsey Hall Drive
- City, State Ellicott City, Maryland
- ZIP 21042
- Telephone (Main) 410-964-0300 (Sang Oh)
- Telephone (Secondary)
- Fax 410-964-2008
- E-Mail soh@talkin-oh.com
- 5 Association with Applicant Attorneys

C. Brief Description of the Requested Zoning Regulation Amendment

- 6 To amend Section 127.5.E.3.c of the Zoning Regulations for the CAC district to allow the Director of the Department of Planning and Zoning to reduce the required 300 square feet of commercial space to be developed per dwelling unit to 50 square feet provided certain conditions are met (currently, the Director may reduce the commercial requirement to 100 square feet per residential unit).



D. Explanation of the Basis / Justification for the Requested Zoning Regulation Amendment

- 7 The Petitioner is the developer of Howard Square, a CAC mixed-use project under development in Elkridge off of Route 1 and Port Capital Drive. The proposed regulation amendment is for the purpose of increasing the vitality of Howard Square and the surrounding area.

As PlanHoward 2030 provides, the demand for commercial development and office space is significantly lower than supply. "Through 2030, the demand for office space is expected to peak at just over three million square feet. This demand is low when compared to the 14.1 million square feet of approved office space in the pipeline in Howard and Anne Arundel Counties." PlanHoward 2030, p. 58.

See attached Continuation Sheet.

E. List of Attachments/Exhibits

- 8 1. Exhibit – Proposed Amendment Language. 2. Continuation Sheet.
3. CRCOG Urban Areas Recommendations

F. Signatures

9 Applicant Russel Powell

Applicant (2)

Date

Date

11/28/12

☐ Additional applicant signatures? **X** the box to the left and attach a separate signature page.

10 Representative
Signature

Date

[Signature]
12-3-12

DPZ Use Only		Amendment No.	
Notes			

Exhibit – Proposed Amendment Language

Zoning Regulations Section 127.5.E.3.c

For every dwelling unit that is developed, 300 square feet of commercial space must be developed on the site. The Director of the Department of Planning and Zoning may, however, reduce the commercial space requirement to ~~100~~ 50 square feet per residential unit under the following conditions:

Continuation Sheet

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The low demand for commercial development has been particularly noticeable within the Route 1 Corridor. Ashbury Courts, a similar mixed-use development in the CAC district, successfully petitioned for a zoning regulation change to allow for increased residential density and the possibility, with approval from the Director of the Department of Planning and Zoning ("DPZ"), of a lower square footage requirement for commercial development. The Ashbury regulation amendment was premised upon the fact that market demand for Ashbury Court residential units was strong, while commercial space suffered from a 75 percent vacancy rate.

A recent Market Analysis and Strategic Implementation Analysis of the Route 1 Corridor by Robert Charles Lesser & Co. (the "RCLCO Study") found that "[t]he coupling of commercial square footage to residential units in the CAC zone has proven to be highly problematic with much of this commercial space remaining vacant after construction or having great difficulty in securing financing for prospective projects. The significant yields in commercial space assumed in future CAC development, all of it in small increments because of its strict tie-in to concurrent onsite residential development (300 square feet per dwelling unit), will continue to be problematic." RCLCO Study, p. 16. The RCLCO study recommends replacing the CAC district entirely, partly so that "there will be no automatic coupling of residential and non-residential uses." RCLCO Study, p. 16.

This proposed regulation amendment does not seek to uncouple the residential and non-residential component of the CAC district. Instead, it seeks to reduce the commercial space required per residential unit to an amount more in line with market demands. According to recommendations offered by the Capital Region Council of Governments (the "CRCOG") regarding urban land planning, "A minimum of 12 square feet to a maximum of 25 square feet per housing unit is recommended for the local neighborhood retail component. . . . The national standard for neighborhood retail is approximately 19 square feet per capita, which most experts agree is overbuilt. According to [the global real estate firm] Cushman and Wakefield, the ideal ratio is approximately 9 square feet per capita. Because all retail needs cannot be met in each neighborhood, a lower ratio of approximately 12 square feet per household is recommended to meet local needs."

According to the CRCOG study, 25 square feet of retail space per housing unit is the *maximum* that is sustainable in a development, while the study recommends as little as 12 square of retail space per housing unit for the retail component to be viable. While this recommendation pertains only to retail space, as opposed to all commercial uses as the CAC district commercial-residential coupling assumes, developments such as Howard Square are unlikely to offer large areas of commercial space other than retail. Furthermore, the requested regulation amendment to a potential minimum of 50 square feet of commercial space per dwelling unit is still two times more than the maximum suggested, and over four times the recommended level, of retail space. Should office or other commercial opportunities be marketable and sustainable, the 50 square foot minimum provides ample allowance for these other forms of commercial space.

Requiring a fixed amount of commercial development, at a level that market demand cannot support, ultimately undermines the redevelopment goals of the Route 1 Corridor and is detrimental to the vitality of new development in the area. Policy 5.4.b of PlanHoward 2030 recognizes the need for increased flexibility in the Corridor: "Evaluate the efficacy of existing Route 1 zoning districts (CE, CAC, TOD); consider more flexibility, especially regarding commercial uses."

The regulation change proposed herein by the Petitioner provides increased development options for the CAC district without increasing permitted residential density and without requiring, ipso facto, a reduced amount of commercial development. Under the amendment proposed, Zoning Regulations Section 127.5.E.3.c would still require 300 square feet of commercial space per dwelling unit. The Director of DPZ, however, would be granted increased flexibility regarding the amount of commercial space required while remaining constrained by the requirements of subsections (1) and (2). Residential density would not increase, although additional dwelling units could be constructed that might otherwise be left undeveloped to satisfy the present commercial space requirement.

It is not in the interests of the general public or the County to require that a developer seeking to revitalize the Route 1 Corridor construct commercial space that will sit vacant and unoccupied. Furthermore, redevelopment opportunities will not reach their full potential, and might be passed over entirely, when dwelling units otherwise permitted must be left unconstructed to meet intractable commercial space requirements.

Reducing the square footage of commercial space that the Director of DPZ can approve per dwelling unit will ensure that the most appropriate balance between residential and commercial uses will exist in a given development. It will also ensure that in redevelopments where high demand for commercial space does not exist, increased residential development that can drive future commercial demand will not be forced to be passed over.



URBAN AREAS

Policy, Planning, and Zoning Recommendations

Development Building Blocks: URBAN NEIGHBORHOODS

The recommended square footage of space for jobs within the urban neighborhood is based on the ratio of jobs to housing. A minimum of 0.5 jobs per household is required. To calculate the actual square footage of building space needed for each neighborhood the number of jobs per household is multiplied by 150 to 350 square feet per job. Live/work units, mixed-use and/or stand alone buildings should be located in the neighborhood core. Home occupations, limited to a small amount of space and subject to parking restrictions, are recommended either in houses or above detached garages on the same lot as residential houses.

Example: One neighborhood @160 acres @ 8 DU per acre = 1280 dwelling units;
1,280 x 0.5 j/h = 640 jobs; 300 sq. ft per job = 192,000 sq. ft.
per urban neighborhood

*Example of urban
neighborhood
retail area*



A minimum of 12 square feet to a maximum of 25 square feet per housing unit is recommended for the local neighborhood retail component. Neighborhood retail should be limited to local service needs where and when possible. The national standard for neighborhood retail is approximately 19 square feet per capita, which most experts agree is overbuilt. According to Cushman and Wakefield, the ideal ratio is approximately 9 square feet per capita. Because all retail needs cannot be met in each neighborhood, a lower ratio of approximately 12 square feet per household is recommended to meet local needs.

Example: One neighborhood @160 acres @8 DU per acre = 1,280 units x 12 sq. ft/u
= 15,360 sq. ft. per neighborhood (minimum)

Retail and service facilities at a minimum standard must be provided, as they are as important as basic infrastructure. They should be thought of as "vertical infrastructure" and initially may have to be leased or rented at cost. Retail for neighborhoods could include small restaurants, take-out food, and personal and business services.